

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

SEA BRIM CONDOMINIUM ASSOCIATION, a
Washington Non-Profit Corporation,

v.
Plaintiff,

ASPEN SPECIALTY INSURANCE COMPANY,
a North Dakota Company; TRISURA
SPECIALTY INSURANCE COMPANY, an
Oklahoma Corporation; ACCELERANT
NATIONAL INSURANCE COMPANY, a
Delaware Corporation; COMMONWEALTH
INSURANCE COMPANY OF AMERICA, a
Delaware Corporation; FIRE & CASUALTY
INSURANCE COMPANY OF CONNECTICUT,
a Delaware corporation; ARROWOOD
INDEMNITY COMPANY, a Delaware
corporation; PENNSYLVANIA
MANUFACTURERS' ASSOCIATION
INSURANCE COMPANY, a Pennsylvania
Corporation; and DOE INSURANCE
COMPANIES 1-10,

Defendants.

NO.

**COMPLAINT FOR DECLARATORY
RELIEF AND MONETARY DAMAGES**

JURY DEMAND

Plaintiff Sea Brim Condominium Association (the "Association") alleges as follows:

I. INTRODUCTION

1.1 This is an action for declaratory judgment and monetary damages, seeking:

1 (A) A declaration of the rights, duties and liabilities of the parties with respect to certain
2 controverted issues under insurance policies issued to the Association, respectively, by Aspen
3 Specialty Insurance Company, Trisura Specialty Insurance Company, Fire and Casualty Insurance
4 Company of Connecticut, Arrowood Indemnity Company, Pennsylvania Manufacturers'
5 Association Insurance Company, Commonwealth Insurance Company of America, and Accelerant
6 National Insurance Company (collectively "Defendants"). The Association is seeking a ruling that
7 the Defendants' policies provide coverage for the damage at the Sea Brim Condominium and that
8 the above listed insurers are liable for money damages for the cost of investigating and repairing
9 the damage at the Sea Brim Condominium.

10 (B) Attorneys' fees (including expert witness fees) and costs.

11 (C) Any other relief the Court deems just and equitable.

12 **II. PARTIES AND INSURANCE CONTRACTS**

13 2.1 The Association. The Sea Brim Condominium Association is a nonprofit corporation
14 organized under the laws of the state of Washington with its principal place of business located in
15 Bremerton, Washington. The Sea Brim Condominium Association is organized under the laws of
16 the State of Washington. The Association has the duty to maintain the common elements and any
17 limited common elements of the Sea Brim Condominium for the common enjoyment of the unit
18 owners. The Sea Brim Condominium consists of two buildings with thirty-nine (39) residential units
19 located Bremerton, Kitsap County, Washington (the "Sea Brim Property").

20 2.2 Aspen. Aspen Specialty Insurance Company ("Aspen") is a North Dakota
21 domiciled insurer with its principal place of business in Rocky Hill, Connecticut. Aspen sold
22 property insurance policies to the Association including but not limited to Policy No. 0PBV943413
23 (in effect from at least 06/07/2013 – 06/07/2015). The Association is seeking coverage under all
24 Aspen policies issued to the Sea Brim Condominium Association or covering the Sea Brim
25 Property at any time.

26 2.3 Trisura. Trisura Specialty Insurance Company ("Trisura") is an Oklahoma
domiciled insurer with its principal place of business in Oklahoma City, Oklahoma. Trisura sold

1 property insurance policies to the Association including but not limited to Policy No.
2 WA06202101 (in effect from at least 06/07/2020 – 06/07/2022). The Association is seeking
3 coverage under all Trisura policies issued to the Sea Brim Condominium Association or covering
4 the Sea Brim Property at any time.

5 2.4 Fire & Casualty. Fire & Casualty Insurance Company of Connecticut (“Fire & Casualty”)
6 is a Connecticut Corporation. Fire & Casualty sold insurance policies to the Association. On
7 information and belief Fire & Casualty issued policies covering the Association from at least 1984
8 to 1986. On information and belief the Fire & Casualty policies identify the Sea Brim
9 Condominium complex as covered property.

10 2.5 Arrowood. Arrowood Indemnity Company (“Arrowood”) is a Delaware domiciled insurer
11 with its principal place of business in Charlotte, North Carolina. On information and belief
12 Arrowood is the successor in interest to Fire & Casualty Insurance Company of Connecticut.

13 2.6 CICA. Commonwealth Insurance Company of America (“CICA”) is a Delaware
14 domiciled insurer with its principal place of business in Sandy Springs, Georgia. CICA sold
15 property insurance policies to the Association including but not limited to Policy No. CICA 2319-
16 1482 (in effect from at least 06/07/2006 – 06/07/2007). The Association is seeking coverage under
17 all CICA policies issued to the Sea Brim Condominium Association or covering the Sea Brim
18 Property at any time.

19 2.7 Accelerant. Accelerant National Insurance Company is domiciled in Delaware with its
20 principal place of business in Sandy Springs, Georgia. On information and belief Accelerant
21 National Insurance Company is the successor in interest to Commonwealth Insurance Company of
22 America. On information and belief Accelerant National Insurance Company was formerly known
23 as Commonwealth Insurance Company of America. Accelerant National Insurance Company
24 assumed all rights, obligations, and liabilities under the insurance contracts issued by
25 Commonwealth Insurance Company of America including but not limited to Policy No. CICA
26 2319-1482 issued to the Association. Accelerant National Insurance Company and Commonwealth
Insurance Company of American are hereinafter collectively referred to as “Commonwealth.”

1 2.8 Pennsylvania. Pennsylvania Manufacturers' Association Insurance Company ("Penn") is a
2 Pennsylvania domiciled insurer with its principal place of business in Blue Bell,
3 Pennsylvania. Penn sold property insurance policies to the Association including but not limited to
4 Policy No. 8416010780544 (in effect from at least 06/07/2016 – 06/07/2019). The Association is
5 seeking coverage under all Penn policies issued to the Sea Brim Condominium Association or
6 covering the Sea Brim Property at any time.

7 2.9 Doe Insurance Companies 1-10. Doe Insurance Companies 1-10 are currently unidentified
8 entities who, on information and belief, sold insurance policies to the Association that identify the
9 Sea Brim Condominium as covered property.

10 2.10 Sea Brim Insurers. Defendants and Doe Insurance Companies 1-10 shall be collectively
11 referred to as the "Sea Brim Insurers."

12 2.11 Sea Brim Policies. The policies issued to the Association by the Sea Brim Insurers shall be
13 collectively referred to as the "Sea Brim Policies."

14 III. **JURISDICTION AND VENUE**

15 3.1 This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332
16 (diversity jurisdiction) as the parties are completely diverse in citizenship and the amount in
17 controversy exceeds \$75,000.

18 3.2 Venue is proper in this district pursuant to 28 U.S.C. § 1331(b)(2) as the Se Brim Insurers
19 marketed and sold insurance to the Association in Kitsap County; a substantial part of the events
20 giving rise to the claim, including the breach of contract, occurred in Kitsap County; and the
21 insured condominium building is located in Kitsap County.

22 IV. **FACTS**

23 4.1 Incorporation by Reference. The Association re-alleges the allegations of paragraphs 1.1
24 through 3.2, above, as if fully set forth herein.

25 4.2 Tender to Sea Brim Insurers. In September and October 2022, the Association tendered
26 claims for insurance coverage to the Sea Brim insures for hidden damage recently discovered by J2
Building Consultants. The Association offered to enter into tolling agreements with the Sea Brim

1 Insurers. To date, none of the Sea Brim Insurers have executed tolling agreements or investigated
2 the Association's claim. The Association understands from J2 Building Consultants that the cost to
3 repair the covered hidden water damage at the Sea Brim Condominium is substantially over the
4 jurisdictional limit of \$75,000.

5 **V. FIRST CLAIM AGAINST SEA BRIM INSURERS FOR**
6 **DECLARATORY RELIEF THAT THE SEA BRIM POLICIES PROVIDE COVERAGE**

7 5.1 Incorporation by Reference. The Association re-alleges and incorporates by reference the
8 allegations of paragraphs 1.1 through 4.2, above, as if fully set forth herein.

9 5.2 Declaratory Relief. The Association seeks declaratory relief from the Court in the form of
10 determinations regarding the following disputed issues:

- 11 (A) The Sea Brim Policies cover the damage to weather-resistive barrier, exterior
12 sheathing, and framing at the Sea Brim Condominium.
13 (B) No exclusions, conditions, or limitations bar coverage under the Sea Brim Policies.
14 (C) The loss or damage to the Sea Brim Condominium was incremental and
15 progressive. New damage commenced during each year of the Sea Brim Policies.
16 (D) As a result, the Sea Brim policies cover the cost of investigating and repairing the
17 weather-resistive barrier, exterior sheathing, and framing at the Sea Brim Condominium.

18 **VI. PRAYER FOR RELIEF**

19 WHEREFORE, the Association prays for judgment as follows:

20 6.1 Declaratory Judgment Regarding Coverage. A declaratory judgment that the Sea Brim
21 Policies provide coverage as described herein and that the Sea Brim insurers are obligated to pay
22 money damages to repair the hidden damage at the Sea Brim condominium complex.

23 6.2 Money Damages. For money damages in an amount to be proven at trial.

24 6.3 Attorneys' Fees and Costs of Suit. For reasonable attorneys' fees (including expert fees)
25 and costs. *See Olympic Steamship Co. v. Centennial Ins. Co.*, 117 Wn.2d 37, 811 P.2d 673 (1991),
and RCW 48.30.015.

26 6.4 Other Relief. For such other and further relief as the Court deems just and equitable.

1 **VII. DEMAND FOR JURY TRIAL**

2 7.1 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Association demands trial
3 by jury in this action of all issues so triable.

4 DATED this 25th day of October, 2022.

5 **STEIN, SUDWEEKS & STEIN, PLLC**

6 */s/ Jerry H. Stein*

7 */s/ Justin D. Sudweeks*

8 */s/ Daniel Stein*

9 Jerry H. Stein, WSBA 27721

10 Justin D. Sudweeks, WSBA 28755

11 Daniel J. Stein, WSBA 48739

12 16400 Southcenter Pkwy, Suite 410

13 Tukwila, WA 98188

14 Email: jerry@condodefects.com

15 justin@condodefects.com

16 dstein@condodefects.com

17 Telephone: (206) 388-0660

18 Facsimile: (206) 286-2660

19 *Attorneys for Plaintiff*